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5. Set-Off and Counterclaim (§ 34 (1*))—Subject-Matter of Set-Off.—In action on two written contracts, held that under Code 1904, § 3299, defendant could not counterclaim for damages suffered because of plaintiff's breach of a third separate written contract, not connected with the ones sued on.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 517.]

6. Contracts (§ 288*)—Building Contracts—Construction.—A contract for the construction of water and sewer lines held not to require the engineers named to personally inspect all of the work, but to allow them to appoint expert agents for that purpose, and to issue certificates on the agent's report.

7. Contracts (§ 290*)—Building Contracts—Waiver.—Where a contract under which plaintiff was to lay sewer and pipe lines for defendant provided for inspection of the work by defendant's engineers, and defendant acquiesced in inspection by an agent of the engineers specified, such acquiescence was a waiver of defendant's right to require the inspection to be personally made by the engineers themselves.

Error to Hustings Court of Richmond.

Action by the Scott-Nuckols Company, Incorporated, against Richmond College. There was a judgment for plaintiff, and defendant brings error. Affirmed.

A. W. Patterson, of Richmond, for plaintiff in error
O'Flaherty, Fulton & Byrd, for defendant in error.

TAYLOR *v.* COMMONWEALTH.

Jan. 16, 1919.

[98 S. E. 5.]

1. Taxation (§ 98*)—Intangible Personalty of Minors—Nonresident Guardian.—Intangible personal property owned by minors domiciled in Virginia is subject to taxation therein under its Constitution, § 168, and Code 1904, § 491, and Acts 1897-98, c. 707, as amended by Acts 1916, c. 492, unless no situs is fixed by the statute law for the taxation of such property, where minor has guardian who is non-resident.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101-103; 15 Va.-W. Va. Enc. Dig. 979.]

2. Taxation (§ 98*)—Intangible Personalty of Ward—Situs for Taxation.—Code 1904, § 492, providing by whom property is to be listed and to whom taxed, does not make domicile of guardian situs of intangible personal property of his ward for taxation, though it

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

requires property to be listed by and taxed to guardian instead of ward.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101-103; 15 Va.-W. Va. Enc. Dig. 979.]

3. Taxation (§ 254*)—Intangible Personalty—Situs.—General rule is that in absence of some statute fixing different rule, situs for taxation of intangible property of one domiciled in state is at residence of owner.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

4. Taxation (§ 98*)—Intangible Personalty of Ward—Situs.—Where ward is domiciled in Virginia, his domicile fixes situs of his intangible personal property for taxation, though he has a nonresident guardian.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 103.]

Error to Corporation Court of Norfolk.

Application by Robertson Taylor, guardian, etc., against the Commonwealth, for relief from an alleged erroneous assessment. To review judgment dismissing the application, applicant brings error. Affirmed.

Loyall, Taylor & White, of Norfolk, for plaintiff in error.
The Attorney General, for the Commonwealth.

SLATER et al. v. SLATER.

Jan. 16, 1919.

[98 S. E. 7.]

1. Dower (§ 95*)—Assignment—Award of Gross Sum.—Under anomalous circumstances, a court of equity may direct a gross sum to be paid a widow as dower in lieu of an annuity, without the consent of all the parties interested.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 820, 821.]

2. Dower (§ 95*)—Award of Gross Sum—Statutes.—Code 1904, § 2281, providing for award of a gross sum as dower, merely provides a rule for determining the gross value of an annuity, and does not change the pre-existing general rule, which, in the absence of anomalous circumstances, requires both the willingness of the widow and the consent of heirs at law to the payment of a sum in lieu of dower.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 820, 821.]

3. Executors and Administrators (§ 221 (1*))—Claims against Estate—Presumptions.—In proceedings by a widow to establish a claim against her husband's estate as the legal owner of two bonds,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.